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C O N F I D E N T I A L SECTION 01 OF 02 NASSAU 000925

SIPDIS

E.O. 12958: DECL: 05/13/2013

TAGS: [PREL](#) [BF](#) [PGOV](#) [CARICOM](#)

SUBJECT: ARTICLE 98 -- A NON-ISSUE FOR CARICOM

Classified By: DCM ROBERT M. WITAJEWSKI

Summary

1. Bahamian Ambassador to CARICOM Archer infers that CARICOM will not support Article 98 and clears post confusion based on mixed signals from the Prime Minister (positive) and the Foreign Ministry (negative). In relation to Cuba, he states that CARICOM will not support discussion on the country in the OAS forum where Cuba is unable to defend itself. End Summary

Article 98: Dead in the Water?

2. (U) Deputy Chief of Mission, accompanied by Econ/Comm officer, met May 13 with Leonard Archer, Bahamian ambassador to CARICOM and the senior Foreign Ministry official who accompanied Foreign Minister Fred Mitchell to the May 8-9, 2003, CARICOM Foreign Ministers meeting held in Kingstown, St. Vincent.

3. (U) DCM had requested the meeting earlier in the week in order to obtain clarification and the Bahamian interpretation of the CARICOM communiqu  dealing with Article 98 and Cuba.

4. (C) Ambassador Archer was candid. In response to DCM's request for clarification of CARICOM's stance, he stated categorically that the fifteen CARICOM member states were agreed that they could not sign an Article 98 bilateral agreement with the United States because to do so "would negate the Rome Treaty" establishing the International Criminal Court. He reminded the Embassy that the CARICOM member-states had been "instrumental in initiating and resuscitating" the concept of the international criminal court. Ambassador Archer insisted that the CARICOM members felt that to sign an Article 98 agreement with the United States now would "neutralize or neuter" the Rome Treaty. "The (Rome) Treaty and an Article 98 agreement simply can't legally co-exist in our opinion," he insisted.

5. (C) Asked what the particular position of The Bahamas was in light of the revised, customized texts of a proposed Article 98 agreement that had been provided to the GCOB, Ambassador Archer responded that the "many different versions" of a draft agreement that the United States had been circulating had been itself a cause of concern within CARICOM. The fact that the United States was circulating "so many" different drafts to different countries, rather than one single text was, to him and his colleagues, Archer insisted, "proof that something was fundamentally wrong with (this) approach." Reminded that the United States had indeed initially proposed one single text and had modified it -- reluctantly -- in response to the desires expressed by individual countries for a text that addressed their particular circumstances, Ambassador Archer had no response.

6. (C) Asked about next steps, Ambassador Archer said that while CARICOM will keep the issue "under review" and was "open to discussion" he saw little, if any possibility of any movement. CARICOM he stated categorically, would not itself propose a revised, acceptable single draft Article 98 text to the United States. Asked if this meant the ball was in the United States, court to propose a new draft, Archer responded that while the United States could do so, "it was a very big if that CARICOM would respond... in any event."

Cuba and Natural Justice

7. (C) Turning to the communiqu  on Cuba that the CARICOM foreign ministers had also issued, Ambassador Archer said that it was the "unanimous" view of the CARICOM membership that seeking to pass a resolution condemning Cuba in the OAS when Cuba was not permitted to defend itself as a member "violated the rule of natural justice." Pressed if this was really a unanimous view or simply a strongly-held position by some member-states, Archer responded that "no one in the room objected to the communiqu 's wording."

8. (C) At the end of the conversation, and following an extended exchange with DCM on the Castro dictatorship and its

historical record of human rights and other violations, Ambassador Archer closed the conversation by telling DCM that "it was illogical" for the United States to continually try to obtain resolutions condemning Cuba since "the United States also had blood on its hands there," criticized the influence of Cuban-American and Cuban exile groups in Florida, and insisted that it was unlikely that the United States would ever obtain a sympathetic hearing from CARICOM members until it altered "its irrational Cuba policy."

Comment

19. (C) In contrast to other members of the Bahamian Foreign Ministry, Ambassador Archer was refreshingly candid and forthcoming in explaining the GCOB position within CARICOM on these issues -- even if the news he delivered was unpleasant and tinged with outdated ideology. On Article 98, Archer confirmed the view that the Foreign Minister and the Foreign Ministry have no political desire, or ideological inclination, to conclude an Article 98 agreement and are pleased to hide behind CARICOM solidarity on this issue. Further reinforcing their position is the fact that the Foreign Ministry officials are also well aware that unless and until they ratify the International Criminal Court treaty, they can free ride on this since there will be no consequences to opposing the U.S. When Ambassador Archer was asked if there was any timetable to submit the treaty to parliament for ratification, an act that would trigger sanctions, Archer coyly responded that he "wasn't aware of any plans to do so." Since the Prime Minister has been much more positive on this issue than the Foreign Minister, the only possibility we see for an Article 98 agreement is if the PM overrules Foreign Minister Mitchell and gives him a direct order. We have seen nothing in PM Christie's governing style and personality to indicate that this is likely. 8
BLANKENSHIP